

2005 SC H 3922

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SC H 3922

(R338, H3922)

AN ACT TO AMEND TITLE 44, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO HEALTH, BY ADDING CHAPTER 96 SO AS TO PROVIDE THAT EVERY AUTOMOBILE MANUFACTURER THAT HAS USED MERCURY SWITCHES ANY TIME SINCE 1996 SHALL DEVELOP AND BEAR THE COST OF OPERATING, IN CONJUNCTION WITH THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL, AN END-OF-LIFE VEHICLE SOLUTIONS PROGRAM TO ADVANCE THE EFFORTS OF VEHICLE RECYCLABILITY AND COLLECTION AND DISPOSAL OF MERCURY SWITCHES FROM VEHICLES THAT ARE BEING RECYCLED; AND TO PROVIDE FURTHER FOR THE REQUIREMENTS OF THIS PROGRAM, INCLUDING, PROGRAM OVERSIGHT, EDUCATIONAL AND OUTREACH MATERIALS, MERCURY SWITCH COLLECTION CONTAINERS AND A COLLECTION SYSTEM, AND REPORTING REQUIREMENTS; TO AUTHORIZE THE DEPARTMENT TO UTILIZE FUNDS FROM THE SOLID WASTE MANAGEMENT TRUST FUND; AND TO AUTHORIZE FINES FOR VIOLATIONS; AND TO ADD SECTION 12-6-3525 SO AS TO PROVIDE A TWO DOLLARS AND FIFTY CENTS TAX CREDIT FOR EACH MERCURY SWITCH COLLECTED AND SUBMITTED FOR DISPOSAL AND TO PROVIDE THAT THIS CREDIT MAY BE USED TO REDUCE CORPORATE TAX LIABILITY OR CORPORATE LICENSE FEES.

Be it enacted by the General Assembly of the State of South Carolina:

Automobile mercury switch removal requirements; End-of-Life Vehicle Solutions Program

SECTION 1. Chapter 96, Title 44 of the 1976 Code is amended by adding:

"Section 44-96-185. (A) For purposes of this section:

(1) 'Automobile manufacturer' means a person, firm, association, partnership, corporation, governmental entity, organization, combination, or joint venture that is the last person in the production or assembly process of a new vehicle that has utilized mercury switches at any time since 1996.

(2) 'End-of-life vehicle' means a vehicle that is sold, given, or otherwise conveyed to a vehicle recycler or scrap recycling facility for the purpose of recycling.

(3) 'Mercury switch' means a mercury-containing capsule, commonly known as a 'bullet', that is part of a convenience light switch assembly.

(4) 'Scrap recycling facility' means a fixed location where machinery and equipment are utilized for processing and manufacturing scrap metal into prepared grades and whose principal product is scrap iron, scrap steel, or nonferrous metallic scrap for sale for remelting purposes.

(5) 'Vehicle' means a passenger automobile or passenger car, station wagon, truck, van, or sport utility vehicle with a gross vehicle weight rating of less than twelve thousand pounds.

(6) 'Vehicle recycler' means an individual or entity engaged in the business of acquiring, dismantling, or destroying six or more end-of-life vehicles in a calendar year for the primary purpose of resale of their parts.

(B) No person shall knowingly place an end-of-life vehicle into the production stream for a steel recycling facility in South Carolina containing a mercury switch, as defined in this section.

(C) Automobile manufacturers shall develop and bear the costs of operating in cooperation with the Department of Health and Environmental Control and within one hundred eighty days of the effective date of this section, an 'end-of-life vehicle solutions' (ELVS) program. This program must advance environmental efforts in the areas of vehicle recyclability, education and outreach, and the proper collection and disposal of mercury switches from end-of-life vehicles. At a minimum, the ELVS program must:

(1) provide a program contact to establish, implement, and oversee this program on behalf of ELVS while this section is in effect;

(2) provide guidance to the Department of Health and Environmental Control as to which vehicles may contain mercury switch assemblies, where they are located, and recommended procedures for removing these assemblies;

(3) provide educational and outreach materials to encourage the participation of vehicle recyclers in this program. This outreach program may include participation by ELVS in direct mailings, department workshops, and department site visits;

(4) provide collection containers to participating vehicle recyclers for mercury switches and switch assemblies to be collected pursuant to this program;

(5) provide a collection/transportation system to periodically collect and replace filled containers from vehicle recyclers when notified that the container is full or on a predetermined schedule established according to the Universal Waste Rules in South Carolina;

(6) engage a qualified universal waste management contractor to carry out ELVS activities consistent with this section;

(7) provide the department with an annual report identifying the vehicle recyclers that have a collection container at their facility;

(8) provide the department with an annual report of the quantity of mercury recycled pursuant to this program;

(9) participate in a joint evaluation of the program, including data considered necessary by the parties for program evaluation; and

(10) ensure that all records generated and maintained meet the requirements of the Universal Waste Rules in South Carolina.

(D) A person violating the provisions of subsection (B) is subject to a fine not to exceed two hundred dollars. This provision may be enforced by a state, county, or municipal law enforcement official or by the department.

(E) Nothing in this section affects or modifies in any way the obligations or liability of a person under any other provision of state or federal law, including common law, for injury or damage resulting from the release of hazardous substances.

(F) The department may utilize funds from the Solid Waste Trust Fund, established pursuant to Section 44-96-120, for the administration of this program."

Tax credits

SECTION 2. Article 25, Chapter 6, Title 12 of the 1976 Code is amended by adding:

"Section 12-6-3525. A vehicle recycler or scrap recycling facility, as defined in Section 44-96-185, participating in the End-of-Life Vehicle Solutions (ELVS) Program, authorized pursuant to Section 44-96-185, is entitled to a credit in the amount of two dollars and fifty cents for each mercury switch collected and submitted for disposal in accordance with the ELVS program. These credits may be used to reduce the taxpayer's corporate income tax liability imposed pursuant to Section 12-6-530 or corporate license fees imposed pursuant to Section 12-20-50. Any unused credits may be carried forward to subsequent taxable years until these credits are exhausted."

Sunset provisions

SECTION 3. Unless reinstated by the General Assembly, the provisions of Sections 44-96-185 and 12-6-3525 terminate on June 30, 2013, and these sections and all other laws and regulations governing, authorizing, or otherwise dealing with the removal of mercury switches from vehicles are deemed repealed on that date.

Time effective

SECTION 4. This act takes effect upon approval by the Governor and applies to mercury switches removed from vehicles after December 31, 2005, and the credits authorized pursuant to Section 12-6-3525 apply to taxable periods beginning after December 31, 2005.